

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
USA,

- against -

JOSEPH SCALI,

Defendant(s).
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**SCHEDULING
ORDER**

16 Cr. 466-01 (NSR)

ROMÁN, D.J.:

In light of the recent Coronavirus Disease 2019 (“COVID-19”) pandemic affecting New York, and given the directives provided by the Chief Judge of the United States District Court for the Southern District of New York to limit in-person court appearances due to the risk presented by COVID-19, it is hereby

ORDERED that the above case is scheduled for **Motion Hearing teleconference on April 21, 2020 at 2:00 pm.**

To access the teleconference, please follow these directions: (1) **Dial the Meeting Number: (877) 336-1839;** (2) **Enter the Access Code:1231334#;** (3) **Press pound (#) to enter the teleconference as a guest.**

The Government shall file a response to Defendant’s Motion to Modify Sentencing pursuant to 18 USC § 3582(c)(1)(A) by Saturday, April 18, 2020. Defendant shall file a reply, if any, by Monday, April 20, 2020 by 3:00 pm.

Prior to the teleconference, Defendant’s counsel shall either obtain from Defendant a written or oral waiver of appearance and consent for counsel to proceed telephonically either with or without Defendant present by telephone. If counsel cannot obtain a written waiver from Defendant, counsel must provide an affidavit

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confirming counsel has obtained Defendant's consent. The affidavit must establish that counsel (1) consulted with Defendant regarding his or her right to be present at all conferences, (2) discussed with Defendant the current public health emergency created by the COVID-19 pandemic and the restrictions to courthouse access that have been implemented as a result, and (3) obtained Defendant's consent to willingly and voluntarily give up his or her right to be present at conferences for the period of time in which access to the courthouse has been restricted on account of the COVID-19 pandemic. The affidavit shall be e-filed with the Court no later than one (1) day before the scheduled teleconference.

The Government is directed to communicate with the Warden or other managerial supervisor at the correctional facility wherein the named defendant is being housed, within 24 hours prior to the scheduled hearing, and prepare an updated report concerning the remedial measures being undertaken at the facility to prevent the spread of the COVID-19 disease and extent of the disease at the facility. This report shall include the following information: (1) the preventative procedures that have been adopted by the facility to contain the spread of the COVID-19 disease, (2) the number of detainees and/or inmates who have been diagnosed with the disease, to date, (2) the number of staff members who have been diagnosed with the disease, to date, (3) an estimate of any suspected, but undiagnosed, cases of the disease amongst either detainees/inmates or staff members, as well as the basis for that estimation, (4) the quarantine procedures that have been, or will be, implemented to contain patients with either confirmed or unconfirmed diagnoses, (5) the sanitation procedures that that have been, or will be, implemented to clean areas/surfaces used by patients with either confirmed or unconfirmed diagnoses, and (6) any further details that will assist the Court in making its bail determination.

In preparation for and while engaging in a teleconference, please follow these

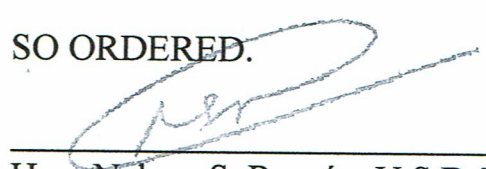
guidelines:

1. Use a landline whenever possible.
2. Use handset rather than speakerphone.
3. Identify yourself each time you speak.
4. Be mindful that, unlike in a courtroom setting, interrupting can render both speakers unintelligible.
5. **Mute** when not speaking to eliminate background noise, i.e., dog barking, kids playing, sirens, papers shuffling, emails pinging, drinking, breathing. It all comes through. This will also prevent interruptions.
6. Avoid voice-activated systems that don't allow the speaker to know when someone else is trying to speak and they cut off the beginning of words.
7. Spell proper names.
8. Have judge confirm reporter is on the line.
9. If someone hears beeps or musical chimes, that means someone has either come in or left the conference. Please be aware that the judge may need to clarify that the reporter has not lost the line. (This has happened before, and the reporter had to dial back in and tell the judge the last thing that the court reporter transcribed.)

Defendant's counsel and/or the Government is directed to serve a copy of this order upon the correctional facility wherein Defendant is housed for purposes of making Defendant available for the scheduled proceeding via telephonic conference.

Dated: White Plains, New York
April 16, 2020

SO ORDERED.



Hon. Nelson S. Román, U.S.D.J.